MICHAEL RODAK, JR.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1974

No. 74-772

PEOPLE OF THE STATE OF CALIFORNIA; THE JUSTICE COURT OF YUBA CITY, SUTTER COUNTY, CALIFORNIA; JUDGE CLAUDE J. MILLER, YUBA CITY JUSTICE COURT; THE JUSTICE COURT OF GROVER CITY, SAN LUIS OBISPO COUNTY, CALIFORNIA; JUDGE G. S. DANA, Grover City Justice Court; and all Justice Courts similarly situated within the State of California; THE JUDICIAL COUNCIL OF THE STATE OF CALIFORNIA; RALPH KLEPS, Administrative Director of the Judicial Council, State of California; STATE OF CALIFORNIA,

Petitioners,

v.

LEWIS GORDON, SANTIAGO ARGUIJO, individually and on behalf of all other persons similarly situated,

Respondents.

PETITIONER'S REPLY MEMORANDUM

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PETITIONER'S REPLY MEMORANDUM

The respondents, in the brief in opposition in No. 74-772 assert that "this case has never been granted class action status by any of the courts below" and so lacks the case or controversy requirement of Article III. (Brief in Opp. p. 15.)

The fallacy of this argument is that the respondents expressly made the suit a class action by the allegations of their petition in the California Superior Court (CT 4-5) and the Superior Court expressly stated the essential class action nature of the allegations (Appendix D to the Petition p. 74) and decided the constitutional issues raised on the basis of these allegations. (Appendix D to the Petition p. 78.) The California Supreme Court did not expressly articulate the class action nature of the dispute in its decision but its order operates upon every member of the class of non-attorney judges of justice courts named as respondents in the petition filed in the California Superior court and grants the relief sought on behalf of *the class* of defendants in such courts.

That this is sufficient to sustain the class action status of the case, for purposes of Article III jurisdiction, is clear from this Court's decision in *Richardson* v. *Ramirez*, ____U.S. ____, 94 S.Ct. 2655 (1974).

In *Ramirez*, three ex-felons challenged California election laws which denied them the franchise because of their criminal records. The plaintiffs sought mandamus in the California Supreme Court to compel the three named county election officers to register them to vote. During pendency of the state court action

the three named defendants voluntarily registered the plaintiffs thus extinguishing the plaintiffs' interest. A fourth election official from a different county was permitted to intervene and was joined as a defendant. This Court accepted jurisdiction to hear the case based on the constructive existence of a bilateral class action between all ex-felons and all election officials in the state.[1] The Court held that, although the named plaintiffs no longer had any legal dispute with the named defendants, a continuing controversy existed between the two groups, and that the parties should therefore be allowed to proceed as representative of their respective classes (94 S.Ct. at 2664).

In this case, there has been lengthy presentation and consideration by the full tier of California courts, resulting in an opinion by the highest state court on the very issue raised in the original petition resulting in a drastic restriction of the policy making function of the Legislative branch of government in California. The continuing interest of the respective classes named in the suit is plain as is the presence of a continuing controversy. As in *Ramirez,* the resolution

[1] Note, Mootness in the Supreme Court, 88 Harvard Law Review 373, 391.

of this controversy has wide application in other jurisdictions; the persuasive significance of the California opinion appears beyond serious argument.

Respectfully submitted,

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